the present case the application is strongly opposed by the Solicitor-General.

There is also the decision in Criminal Motion No. 10 of 1966 which is unreported. I am grateful to the learned Solicitor-General for bringing it to my notice. In that matter, the application for the transfer of the case from the district court to the High Court was made by the Public Prosecutor on the ground that questions of law of unusual difficulty were likely to arise at the trial. Suffice it to say that the application was refused by the High Court.

The second ground on which the application is made is based on paragraph (e) of section 177(1) which provides that whenever it is made to appear to the High Court that an order for the transfer of the case to the High Court is expedient for the ends of justice it may order the case to be so transferred. The expression "expedient for the ends of justice" is very wide and may embrace grounds, outside the other clauses of section 177(1), which may indicate the necessity of a transfer to secure justice and a fair trial but no other such ground has been advanced by the applicants.

It is the duty of the High Court to create and maintain confidence in the administration of justice. Special facilities for a trial or trial by a special judge or a special court is apt or at least is capable of being used to destroy that confidence and except where the supreme needs of justice require it, the ordinary course of justice is best left untouched. On the other hand no person should be allowed to undergo a trial by a district judge or magistrate of whom he has reasonable apprehension of being biased but not because the judicial officer is in his opinion incompetent or incapable of properly performing his duty.

The High Court will not hesitate to transfer a criminal case from a lower court to itself where there are good grounds for so doing. In this application, I can find no compelling ground for making the order which the applicants seek and the application is therefore dismissed.

Application dismissed.

Solicitors: *Drew & Napier.*

SHUM WAI TONG & ANOR. v. PUBLIC PROSECUTOR

[C.C.A. (Wee Chong Jin C.J., Chua and Choor Singh JJ.) March 9, 1972]

[Singapore — Criminal Appeal No. 16 of 1970]

Penal Code (Cap. 119, 1955 Ed.), ss. 34 and 489A — Currency notes — Forging or counterfeiting of, in furtherance of a common intention.

Evidence — Accomplice — Corroboration of.

The two appellants were tried before the High Court, convicted and each was sentenced to 8 years imprisonment, under section 489A of the Penal Code for counterfeiting currency notes, to wit, Malaysian $50 notes to the value of approximately $70,000, in furtherance of the common intention of both of them.

They appealed against the conviction and sentence.

The only evidence against the second appellant was that of an accomplice. So far as the second appellant was concerned, the accomplice's evidence was uncorroborated, and this the learned trial judge recognised although he had found that there were "some elements of corroboration".

In the case of the first appellant, the apparatus used for the counterfeiting process were found both in his business premises and his flat.

Held: (1) as there was clear corroboration of the accomplice's evidence against the first appellant, therefore the learned trial judge was justified, on all the evidence before him, in finding the first appellant guilty and therefore his appeal against conviction should be dismissed and sentence confirmed;

(2) on the evidence, the conviction against the second appellant could not stand and therefore his appeal should be allowed, and the conviction and sentence set aside.

COURT OF CRIMINAL APPEAL.

Dato' David Marshall for the appellants.

Michael Khoo Kah Lip (Deputy Public Prosecutor) for the respondent.

Chua J., (delivering the judgment of the court): The two appellants were tried before the High Court, convicted and each was sentenced to 8 years imprisonment on the following charge:

"That you, Shum Wai Tong and Oh Ah Kai, on or about the 27th day of January, 1969, at No. 243, Victoria Street, Singapore, in furtherance of the common intention of both, did counterfeit currency notes to wit, Malaysian $50 notes to the value of approximately $70,000 and thereby committed an offence punishable under section 489A of the Penal Code read with section 34 of the said Code."

They now appeal against their conviction and sentence.

The first appellant, Shum Wai Tong, is the proprietor of Sin Kwong Press at 243 Victoria Street, Singapore. The second appellant, Oh Ah Kai, was the service manager employed by the East Asiatic Co. Ltd., in Singapore, and was responsible for the installation, maintenance and repair to Heidelberg offset printing machines sold by the company.

The principal prosecution witness at the trial was Sim Kheng Chiang a businessman from Sarawak. His evidence was shortly this. He met the second appellant casually in a plane from Sibu to Miri. They exchanged visiting cards and he told the second appellant that he usually stayed at the South East Asia Hotel in Waterloo Street whenever he made his trips to Singapore and that he could be contacted there.

Sometime in the early part of 1968, he was in Singapore and the second appellant paid him a visit at the South East Asia Hotel. The second appellant suggested a business arrangement. A few days later the second appellant introduced him to the first appellant. At the beginning he was asked to give a loan of about $40,000 in order to enable the first appellant to buy an offset printing machine from the East Asiatic Co. Ltd. to print diaries, which could be sold at a good profit. He put them off saying that he would have to consider this proposition, but some

days later they turned up again at the South East Asia Hotel and showed him a photograph of a $50 Malaysian note and then the proposition was put to him that with the aid of the offset machine which the first appellant had the intention of purchasing, the first appellant, with the aid of the second appellant, would be able to perfect forgeries of the $50 Malaysian currency notes.

After further discussions over a few more visits, it was eventually agreed that he would grant a loan of around $31,000 in all to be repaid in six months' time. He would advance these monies in instalments, but in any case the repayment would have to be made before Chinese New Year, 1969, which fell on February the 17th.

He made advances from time to time totalling about $31,000 for which he received an I.O.U. chit signed from time to time as and when he made the advance and two post-dated cheques from the first appellant.

When no repayments were made he began to get restive and he made a trip to Singapore in January, 1969, specially to try and get his money back. He visited the first appellant several times and he was eventually told to come to the press in Victoria Street at about 8 p.m. on the 26th January, 1969. This appointment he kept.

He went to the Press at 8 p.m. There he saw the two appellants printing $50 Malaysian currency notes. The first appellant said that he had no money to repay the loans and after discussion he agreed to take the forged notes at the equivalent of 40 per cent of their face value in lieu of the loans which he had made totalling $31,000. The two appellants were printing the forged notes until dawn. He then left in order to pack up as he had to leave for Sarawak by air at about 8 a.m. He returned to the press at 7 a.m. and picked up a bundle which the first appellant told him contained $65,000 to $70,000 forged notes.

He returned to Sarawak with the forged notes and eventually passed the notes to three of his friends — Koh Liang Seng, Sim Poh Hoe and Sim Kheng Hock. He returned to Singapore before the Chinese New Year intending to see the first appellant and telling the latter that he intended to burn the forged notes and to ask for the return of the $31,000, but the first appellant refused to see him. On the morning of 1st March, 1969, he was detained by the Singapore police.

The rest of the evidence adduced by the prosecution was shortly this. In February/March 1969 the Malaysian police found that counterfeit $50 Malaysian notes were in circulation in Sarawak. At 2.30 p.m. on the 1st March, 1969, a police party went to the Sin Kwong Press and there the first appellant was arrested. The second appellant was then in the office of the first appellant. The police searched for forged notes on the premises but found none. On the same day the police searched 340B Joo Chiat Road, the residence of the first appellant, for forged notes but found none.

On the 8th March, 1969, the second appellant was arrested. On the same day the police again searched the premises of Sin Kwong Press for forged notes but did not find any. On the 11th March at 10.30 a.m. the police again searched the premises of Sin Kwong Press. On this occasion, an expert, the Assistant Superintendent of the Government Printing Office, was in the police party. They examined the Heidelberg offset printing machine which was on the premises. This machine was purchased by the first appellant on the 31st July, 1968, on hire-purchase from the East Asiatic Co. Ltd. and it was installed by the second appellant.

Two rubber blankets were removed from the rollers of the Heidelberg machine. They were exhibits P. 20 and P. 29A. In between the rubber blankets was found a sheet of paper (Ex. P. 30) which had four impressions of the rear image of a Malaysian $50 currency note. On P. 29 were found reproductions of the four impressions in the same kind or a similar kind of ink to that of P. 30. A bottle of this kind of ink was also found on the premises. The expert was able to say that the four impressions on P. 30 caused the reproductions on P. 29 and he concluded that P.30 must have been printed on the Heidelberg machine.

On the 11th March, 1969, at 3 p.m. the police again searched the flat of the first appellant, this time to look for photographic equipment. A photo-copying apparatus was found and also two film strips, Ex. P. 24 and P. 25. Ex. P. 24 is the negative and Ex. P. 25 the positive of certain designs taken from a genuine $50 Malaysian currency note. Ex. P.25 was a positive transparency which shows the rear image of a $50 Malaysian currency note. The police expert, who found them in the flat, said that these were capable of having been produced by the photo-copying apparatus that he found in the flat.

The expert from the Government Printing Office also agreed that the photo-copying apparatus, coupled with certain colour filters found in the flat, were capable of being used to produce exhibits P. 24 and P. 25. This was an essential step in the offset process. First of all photo-copying had to be done by a photo-copying apparatus and thereafter aluminium plates, one for each colour, had to be prepared and then used on a machine like the Heidelberg offset printing machine found on the premises of Sin Kwong Press in order to produce the desired result.

The Malaysian police at Sarawak recovered the following counterfeit $50 Malaysian currency notes: 660 notes from Sim Kheng Hock on the 19th March, 1969; 500 notes from Sim Poh Hoe on the 21st March, 1969; 155 notes from Koh Lian Seng on 22nd March, 1969.

At the close of the prosecution's case the trial judge called on both appellants for their defence. In his judgment at the concluding stages of the trial he said:—

"At the end of the prosecution case, I decided, after warning myself, that there was a *prima facie* case made out against both the accused which, if unrebutted, would warrant their conviction.

I was aware that so far as the second accused is concerned the elements of corroboration were not as strong as the corroboration, such as it was, in respect of his evidence relating to the first accused. Notwithstanding that, I was of the opinion that they both had a case to answer. I considered that the first accused could not possibly have carried out this project entirely on his own without the expertise of someone like the second accused, and there was some evidence to show that the second accused was in fact on visiting terms with the first accused at his press from time to time; at times he had no official purpose to be there in relation to either maintenance or repairs to this particular machine between November and January 1969. Although a suggestion was made that he was there on social visits, this did not, as it turned out later, mean that he could not be called upon to assist in dealing with the printing machines."

Yet, later on in the judgment the trial judge said:—

"It is true that the evidence about the incriminating exhibits has nothing to do with the 2nd accused, taking the case against him separately. The case against him stands or falls on the reliance I can place on Sim after having warned myself throughout the case that he was an accomplice whose uncorroborated evidence I should not act upon unless I was thoroughly convinced that he had told the truth about the implication of the 2nd accused in this plot engendered in early 1968 to print the currency notes for the purpose of their being accepted by Sim in settlement of his loan to the 1st accused in order that he could utter them as and when he liked to recoup his losses arising from the unfulfilled loans."

It is clear that the only evidence against the second appellant was that of Sim Kheng Chiang, an accomplice. So far as the second appellant is concerned the accomplice's evidence is uncorroborated and this the trial judge recognised though he had earlier, at the close of the prosecution case, found that there were "some elements of corroboration". In those circumstances the conviction of the second appellant cannot stand.

The case against the first appellant is, however, different. The finding of the exhibit P. 30 in between the rubber blankets of the rollers of the Heidelberg machine which was in the business premises of the first appellant and the finding of the photo-copying machine and the two film strips, Exhibits P. 24 and P. 25, in the flat of the first appellant is in our view clear corroboration of the accomplice's evidence.

After hearing the evidence of the first appellant and the witnesses called on his behalf the trial judge rejected their evidence and the suggestion that the incriminating evidence was planted by the accomplice or his allies to falsely incriminate the first appellant. In our judgment the trial judge was justified, on all the evidence before him, to find the first appellant guilty and we would dismiss his appeal against his conviction.

As regards the sentence we see no reason to interfere with it. In the result we allow the appeal of the second appellant and set aside his conviction and sentence. The appeal of the first appellant is dismissed and the sentence against him is confirmed.

Appeal of the first appellant dismissed.

Appeal of the second appellant allowed.

Solicitors: *David Marshall.*

WING TAI GARMENT MANUFACTORY (SINGAPORE) LTD. v. THE PORT OF SINGAPORE AUTHORITY

[C.A. (Wee Chong Jin C.J., Chua and Choor Singh JJ.) March 9, 1972]

[Singapore — Civil Appeal No. 26 of 1971]

Port Authority — Goods in custody of Port of Singapore Authority — Storage at "cheap rate" godown at request of owners — Whether there was notional delivery or attornment — Loss — Whether port authority liable — Port of Singapore Authority Ordinance, 1963, s. 88.

This was an appeal by the plaintiffs from the judgment of Tan Ah Tah J. dismissing their claim against the defendants/respondents for damages for conversion of 32 cases of textiles valued at $40,046.63.

The appellants' textiles were shipped in the vessel "Yamaki Maru" and were packed in 50 cases under two bills of lading issued "to order". One bill of lading covered 18 cases and the other covered 32 cases.

All the 50 cases were completely discharged into the respondents' godown on October 19, 1967. Between that date and October 30, 1967, 48 out of the 50 cases were removed by the respondents to another godown.

On October 30, 1967, the appellants wrote to the respondents requesting that they store the 50 cases in "your cheap rate godown". This letter and two delivery orders issued by the Singapore agents of the vessel "Yamaki Maru" were delivered by hand to the respondents' assistant traffic superintendent, storage section. The application was accepted and a "storage order" was issued, evidencing that the 50 cases were, from October 31, 1967, stored at the respondents' godown.

On November 9, 1967, the plaintiffs handed a letter to the respondents' traffic officer as a result of which the plaintiffs obtained delivery of 18 out of the 50 cases stored at the godown. The remaining 32 cases were never delivered to the plaintiffs, it being agreed that they were stolen while they were still in the custody of or under the control of the respondent.

The issue at the trial was whether or not there had been a notional delivery of all the goods to the plaintiffs by the respondents' acceptance of the plaintiffs' application to store the goods in their "cheap rate" godown.

The learned trial judge dismissed the action on the ground that there had been no delivery, notional or otherwise, of the 32 cases. He held that it was a case where delivery was postponed because of the lack of storage space on the plaintiffs' premises and that the 32 cases remained in the custody of the respondents for the purpose of delivery even when they were removed to another godown.

On appeal,

Held, dismissing the appeal: (1) in this case there was evidence to support the learned trial judge's finding. The learned trial judge was entitled on the evidence not to draw the inference that there had been a notional delivery particularly where such an inference would result in the respondents being found to have agreed to store the goods at a rate for less than the rate applicable before its acceptance of the plaintiffs/appellants' application contained in the letter of October 30, 1967;

(2) whether or not there was an attornment is a question of fact. In the present case, it was implicit from the learned trial judge's findings of fact that he was of the opinion that there had been no attornment;

(3) therefore, it followed that when the 32 cases were stolen from the godown where they were eventually stored, these goods were in the custody or control of the respondents for the purpose of delivery and the respondents, by virtue of section 88 of the Port of Singapore Authority Ordinance, 1963, were absolved from liability for the loss caused to the plaintiffs.